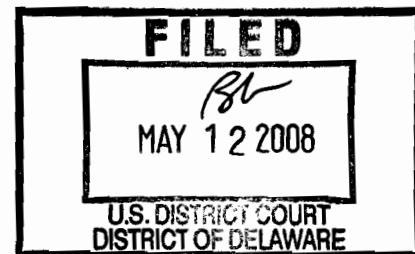


IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

ADAM HACKETT,  
PLAINTIFF,  
v.

CORRECTIONAL MEDICAL SERVICES,  
Defendants,

C.A. NO. 06-426 JJF



PLAINTIFF'S REPLY TO DEFENDANTS  
RESPONSE IN OPPOSITION TO PLAINTIFF'S  
MOTION TO STRIKE MOTION FOR SUMMARY  
JUDGEMENT PURSUANT TO FEDERAL RULE  
OF CIVIL PROCEDURE 12(F)

COMES NOW, PLAINTIFF, ADAM HACKETT, AND RESPECTFULLY  
MOVES THIS HONORABLE COURT TO ACCEPT THIS MOTION AS THIS  
REPLY TO DEFENDANT CMS'S RESPONSE, IN OPPOSITION TO, HIS MOTION  
TO STRIKE, CMS'S MOTION FOR SUMMARY JUDGEMENT.

THE PLAINTIFF ASSERTS THAT DEFENDANT'S CMS'S RESPONSE  
IN OPPOSITION AND ITS EXHIBITS (A) & (B) ATTACHED TO IT ACTUALLY  
SUPPORT REASONS WHY THE COURT MUST STRIKE DEFENDANT CORRECTIONAL  
MEDICAL SERVICES MOTION FOR SUMMARY JUDGEMENT PURSUANT  
TO FRCP 12(F)

THE FOLLOWING HESENSES ARE ASSERTED

1. IN Relevant Part, Counsel for CMS state that, "Legal mail sent to Counselor QUINLAN, was in essence not read by her and simply forwarded to him without review or comment to him". Such action between each Counsel not to show a common courtesy would be truly A RARITY AND IMPROPER.
2. Current Counsel for Correctional Medical Services has simply not petitioned the court in good faith. Counsel, has "conceded" that after he received materials from Counselor QUINLAN's office. He Read the letter and reviewed the files but could not locate either a transcript for a deposition for Dr. Barnett or a notice of deposition of Dr. Barnett and he assumed none had been taken.
3. Consequently, Counsel has only confessed error to the, misrepresentations of the material facts. As a result, of Plaintiff's motion to strike. This is A plain error. PARTICULARLY in light of the fact that Counsel's admission raise the spectrum; that CMS's motion for the, summary judgement was based on incompetent grounds at the time it was presented to the court for consideration.
4. Current Counsel, for Correctional Medical Services has propose to this court that former Counselor QUINLAN, owed no duty to Plaintiff beyond providing the notice of substitution of Counsel, in which this defense Counsel for CMS is wrong about former Counsel QUINLAN's conduct and she has a right to speak for herself.

More importantly, RULE 1.3 STATES THAT A LAWYER

"Shall Act with REASONABLE diligence And Promptness in Representing A Client". And RULE 1.4(b) STATES that A Lawyer Shall EXPLAIN A Matter to the Extent Reasonably NECESSARY to Permit the Client to make informed decisions. Regarding the Representation. And 1.4(A) STATES that "A LAWYER SHALL keep A Client Reasonably informed About the Status of A Matter". AS A PROFESSIONAL COURTESY COUNSELOR QUINN, failed to Reasonably do so.

5. Plaintiff, ASSERTS that based on the current Revelations made by Counsel for CMS James B. DANCE. Pursuant to the Federal Rules of Civil Procedure 11(c) And Perhaps further consideration MAY be warranted AS possible violations under Delaware Lawyers Rule of Professional Conduct (DLRPC) with respect to Counselor DANCE behavior.

RULE 1.1 STATES that A Lawyer Shall provide competent Representation which requires among other things the thoroughness AND PREPARATION REASONABLY NECESSARY for the Representation. RULE 1.3 STATES that A LAWYER Shall Act with Reasonable diligence AND Promptness in Representing A Client. RULE 1.4(b) STATES that, A LAWYER "Shall EXPLAIN A Matter to the Extent Reasonably NECESSARY to Permit the Client to make informed decisions Regarding the Representation." These Rules would APPLY to Plaintiff's And Defense ATTORNEYS Alike.

CONCLUSION

Plaintiff, asserts that there is a continuing case in controversy in this matter. It has been, no fault of Plaintiff that the Attorneys who have been representing Defendant's CORRECTIONAL MEDICAL SERVICES, INC; has ~~been~~ engage in the dereliction of their duties or have neglected to plead their cause in good faith.

However, FEDERAL RULES OF CIVIL PROCEDURE ARE the body of law concerned with methods, procedure and practice in civil litigation. Title 28 of UNITED STATES CODE. There should be no doubt that the RULES exist to provide a level playing field.

Counsel DANEK on behalf of CMS states that he believes there is no basis in law or logic for Plaintiff to rely on the U.S. Department of Justice's Report as a "Expert Medical Opinion" in support of his claims to be sufficient to establish deliberate indifference to serious medical needs.

Plaintiff, disagrees. Because, although Plaintiff relies on nothing more than the force of his own assertions without citation, specific findings of fact were made in this Report on critical issues involving exactly how the grievance procedure was handling inmates medical complaints. These procedures ARE relevant since CMS has introduced them as evidence. Therefor Federal Rule of Evidence 702 may apply.

Plaintiff, asserts CMS can't have it both ways.

(1) CMS, wants the benefit of the Agreement with the Justice Department And (2) CMS, wants a windfall profit of benefiting from any challenged opposition from this Plaintiff because he wants to rely on the "SAME INFORMATION" since he cannot afford to hire an expert.

Plaintiff, believes it would be improper to exclude him from being permitted to use this material evidence to support his claim.

Finally, it is for the court to remedy past or imminent official interference with individual inmates presentation of claims to the court.

This Plaintiff, remains a victim at the hands of CMS and by the conflict created by both the former and current defense counselors for CMS MS. QUINNAN AND MR. DRNEC. It is, on the basis of their misconduct that precipitated these issues.

Plaintiff, respectfully moves this honorable court to strike CMS's motion for judgement and permit Plaintiff to move forward with his case.

Plaintiff, would also request the court to reconsider his motion being held in abeyance for Adam Hackett appointment of counsel.

PLEASE CONSIDER

MAY 6<sup>th</sup>, 2008

Certificate of Service

I, ADAM HACKETT, hereby certify that I have served a true and correct cop(ies) of the attached: Reply to Defendant's Opposition to motion to Strike upon the following parties/person (s):

TO: Judge Joseph S. Fawley Jr  
Clerk of U.S District Court  
J. Caleb Boggs Federal Building  
844 N King Street - Room 4124  
Wilmington, DE 19801

TO: Amy A. Quinlan, ESQ  
MORRIS JAMES, LLP  
500 Delaware Avenue  
Suite 1500  
Wilmington, DE 19801

TO: James E. Drnel, ESQ  
Balick & Balick, LLC  
711 King Street  
Wilmington, DE 19801

TO: Adam Hackett  
D.C.C.  
1181 Paddock Road  
Building 22 B Lower  
Smyrna, DE 19977

**BY PLACING SAME IN A SEALED ENVELOPE** and depositing same in the United States Mail at the Delaware Correctional Center, Smyrna, DE 19977.

On this 6th day of MAY, 2008

For more information, contact the author at [jeffrey.schultz@wisc.edu](mailto:jeffrey.schultz@wisc.edu).

IMADIAN HACKETT  
SBI# 329697 UNIT 1  
DELAWARE CORRECTIONAL  
1181 PADDOCK ROAD  
SMYRNA, DELAWARE 19977

LEGAL MAIL

Office of the Clerk  
U.S. District Court  
844 N. King Street, Lockbox 18  
Wilmington, DE  
19801

1980183312 042

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